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OGC HAS REVIEWED.

6 April 1954

MEMORANDUM FOR: FE Personnel

25X1A

ATTENTION

: Mr. [REDACTED]

SUBJECT

: Memorandum of USIS Disbursement Officer, Bangkok, regarding Taxability of Post Differential, dated 26 February 1951

1. You have asked me to examine the contents of the subject memorandum and to express an opinion as to whether its contents might be helpful to any of our personnel assigned [REDACTED] similarly classified posts. So far as I can tell, this memorandum is based upon a fundamental misconception of the application of present tax laws to the post differential. As a cardinal principle under U. S. income tax laws, all amounts received in the nature of compensation for personal services are taxable income in the absence of an express statutory exclusion. The exclusion which this memorandum purports to find applicable deals, however, with amounts received as "cost of living allowances in accordance with regulations approved by the President," (Section 116(j) of the Internal Revenue Code). Cost of living allowances are a quite different animal than a post differential.

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2. The latter is intended to compensate for environmental factors rather than an increased cost of living occasioned by service in the employ of the Government abroad. The cited section quite clearly applies only to cost of living allowances.

3. It would be my guess that the several employees referred to in the memorandum who were able to obtain a refund of tax paid on the inclusion of the differential by the attachment of the suggested statement were not properly entitled to it.

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Office of General Counsel

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